

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA

§
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§
§

v.

CRIMINAL NO. 4:04CR38

RONALD KENDRIC MCCOY

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release.

After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on December 4, 2012, to determine whether Defendant violated his supervised release. Defendant was represented by John Teakell. The Government was represented by Alma Hernandez.

On August 31, 2004, Defendant was sentenced by the Honorable Richard A. Schell, United States District Judge, to a sentence of 40 months imprisonment followed by a 3-year term of supervised release. The term of supervised release was revoked on December 29, 2010, and the defendant was sentenced to 10 months imprisonment followed by an additional 26 month term of supervised release. Defendant began his term of supervision on August 14, 2007.

On October 12, 2012, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender Under Supervision (the "Petition") (Dkt. 51). The Petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall not commit another federal, state or local crime; (2) Defendant shall not incur new credit charges or open additional lines of

credit without the approval of the probation officer unless payment of any financial obligation ordered by the Court has been paid in full; (3) Defendant shall pay restitution in the amount of \$107,637.99.

The Petition alleges that Defendant committed the following violations: (1) On May 28, 2012, as reported by Plano, TX Police Department, Defendant committed the offense of assault – bodily injury against Kevin Barrett. The case has been assigned Cause No. 003-86138-2012, in Collin County Court at Law and remains pending as of this writing; On June 18, 2012, as reported by McKinney, TX Police Department, Defendant committed the offense of filing a false police report. The case has been filed with the Collin County District Attorney's Office, however, Defendant is yet to be arraigned, and a cause number is unavailable. Defendant was not immediately arrested on either misdemeanor offense; however, arrest warrants were subsequently issued. On August 3, 2012, Defendant self-surrendered to the custody of the Collin County Detention Center, McKinney, TX, where he posted a \$7,500 bond for both the aforementioned offenses; (2) On September 14, 2012, Defendant created and submitted by email a fraudulent letter on agency letterhead of the United States District Court, Eastern District of Texas Probation and Pretrial Services, to Guild Mortgage in an attempt to obtain loan approval in the amount of \$432,500. As of this writing, the case has been forwarded to the U.S. Attorney's Office for further investigation and possible prosecution; Defendant failed to make payments as instructed for the months of September, October, November, and December 2011; and January, February, March, July, and August 2012. To date, a restitution balance of \$106,408.81 remains outstanding.

At the hearing, Defendant entered a plea of not true to the alleged violations. Defendant also requested hearing and an allocution before the District Judge.

At the hearing, the Court heard the testimony about a physical altercation involving Defendant and another individual, who is a federal air marshal, in which Defendant is alleged to have been the aggressor and the result of which were state court criminal assault charges. Having heard the testimony presented, the Court finds that there is probable cause to believe Defendant was the aggressor. The Court also heard testimony from Defendant's supervising officer with U.S. Probation who testified about a falsified letter purportedly sent by Defendant to obtain a loan and Defendant's failure to make restitution payments as ordered.

Having considered the totality of the evidence and testimony presented, the Court finds that Defendant has violated the terms of his supervised release and that his supervised release should be revoked.

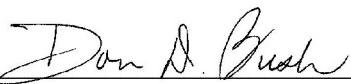
RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984 and having considered the arguments presented at the December 4, 2012 hearing, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of twelve (12) months, with no supervised release to follow.

Within fourteen (14) days after service of the magistrate judge's report, any party may serve and file written objections to the findings and recommendations of the magistrate judge. 28 U.S.C. § 636(b)(1)(C).

Failure to file written objections to the proposed findings and recommendations contained in this report within fourteen days after service shall bar an aggrieved party from *de novo* review by the district court of the proposed findings and recommendations and from appellate review of factual findings accepted or adopted by the district court except on grounds of plain error or manifest injustice. *Thomas v. Arn*, 474 U.S. 140, 148 (1985); *Rodriguez v. Bowen*, 857 F.2d 275, 276-77 (5th Cir. 1988).

SIGNED this 26th day of December, 2012.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE